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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/642,915

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Linda A. Carter

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EXAMINER

LEWIS, KIM M

ART UNIT

PAPER NUMBER

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MAIL DATE

DELIVERY MODE

03/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/642,915	Applicant(s) CARTER, LINDA A.	
	Examiner Kim M. Lewis	Art Unit 3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input checked="" type="checkbox"/> Other: <u>Detailed Action</u> . |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1 and 12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. More specifically, claims 1 and 12 recite “a finely woven fabric which normally retains the treatment fluid and which dispenses the treatment fluid in response to pressure and/or body temperature”, yet the specification fails to disclose how finely woven fabric retains the treatment fluid and how the fluid is dispensed in response to body temperature.

Claim Objections

3. Claim 10 is objected to because of the following informalities:

Claim 10, “find” in line 4 should read --fine--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 5-10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,122,554 ("Stager").

As regards claims 1 and 5-7, Stager discloses an apparatus in the form of a glove (10) for applying treatment fluids to the human body. More specifically, the glove comprises a fluid impervious layer (16), and an absorbent woven treatment layer (18, 20 or 22) having a plurality of spaced, parallel, longitudinally extending configurations/section (individual finger sections 28) aligned with a predetermined section of the human body that inherently dispense fluid in response to pressure (col. 2, line 50- col. 3, line 17). With respect to applicant's recitation of finely, the examiner contends that the woven treatment layer is finely woven.

Re. claim 8, the thumb section is angular.

Re. claims 9 and 10, the fine woven (mesh) layer inherently has a checkerboard pattern.

Re. claim 11, as broadly as claimed, woven treatment layer (18, 20, 22) are of an open configuration in that nothing is placed on one side of the treatment layer.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stager in view of U.S. Patent No. 6,927,316 ("Faries, Jr. et al.").

Stager teaches a glove 10 for applying treatment fluids to the hands and is fully capable of applying treatment fluids to the feet comprising a fluid impervious layer 16, and an absorbent woven treatment layer (20 or 22) having a plurality of sections that inherently dispenses fluid in response to pressure (col.2, line 50- col. 3, line 17).

Stager fails to teach the claimed apparatus for applying treatment fluids to the human body having the configuration of the human torso, arms, and legs.

Dressings for applying treatment fluids to the body are known and are demonstrated by the prior art of record. These prior art devices generally take the form

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of flat dressings similar to the typical Band Aid® brand bandages. Faries, Jr. et al. discloses that these flat dressings are limited in their ability to cover highly contoured surfaces of the body (e.g., the face, scalp, neck, shoulders, hands, complete torso and/or legs, bent elbows and knees, hips, ankles and feet). Faries, Jr. et al. disclose a burn dressing in the form of a vest and in the form of legs. Faries, Jr. et al. also disclose that U.S. Patent Nos. 3,343,537, 3,279,465 and 5,328,449 disclose burn dressings that are shaped to cover various body parts. Thus, the provision of an apparatus capable of applying treatment fluid to the human body having the configuration of the torso, arms and legs is known. Therefore, it would have been obvious to one having ordinary skill in the art to provide the device of Stager in the configuration(s) of the torso, arms and legs in order to also apply a treatment fluid to highly contoured areas.

Applicant should also note that it has been held that a change in shape of a prior art device is a design consideration within the level of ordinary skill in the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

9. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stager in view of Faries, Jr. et al. as applied to claim 1 above, and in further view of U.S. Patent No. 2,010,345 ("Brewster").

Re. claims 3 and 4, both Stager and Faries, Jr. et al. fail to teach that the components of the treatment apparatus are interconnected by fasteners, such as, hook-

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and-loop fasteners, snaps, buttons, and zippers. Brewster, however, discloses a garment for use on the human body comprising separate components that can be interconnected by buttons for the inherent purpose of allowing the garment to remain in place and not ride up/down on the user, thus providing complete coverage of the body.

In view of Brewster, it would have been obvious to one having ordinary skill in the art to provide the modified device of Stager with buttons in order to allow the separate components of the device to be interconnected so as to provide a means for allowing the components to remain in place and not ride up/down on the user.